Of the various ‘surprises’, three deserve note. First, National negotiated formal governance arrangements with three minor parties – ACT, United Future and the Māori Party – and subsequently (in early April 2009) a ‘memorandum of understanding’ with a fourth – the Greens. Yet one agreement – with ACT – would have sufficed. As it stands, the new government enjoys the support of 69 MPs on matters of confidence and supply, giving it a majority of 16.

Second, the agreements with ACT, United Future and the Māori Party were modelled on the previous government’s highly unusual multi-party governance arrangements (White, 2005). Yet Labour’s innovative arrangements were severely criticised by National at the time, with Don Brash, the party’s then leader, calling them ‘disturbing’, ‘odd’, ‘unstable’ and ‘concerning from a constitutional point of view’ (Brash, 2006).

Third, National negotiated broadly similar – and, in structural terms, symmetrical – relationships with three of the four parties with which it now has a formal, signed accord. Yet this symmetry was not essential politically, and Labour’s previous deals with minor parties (in 1999, 2002 and 2005) were all asymmetrical.

How are these ‘surprises’ to be explained? This brief article attempts to provide some answers. But first a few comments on the outcome of the 2008 general election.

The general election on 8 November 2008 – the fifth under New Zealand’s mixed member proportional (MMP) voting system – marked the first substantial change of government since 1999. The clear victory for the centre-right was unsurprising, especially given the results of opinion polls during the preceding 12-18 months. Rather more unexpected, however, were the composition and structure of the new government.
better that Labour’s strong showing in 2002 (41.3%). With 58 seats in the 122-seat Parliament, National is only four votes short of an overall majority.

More significantly, the 2008 general election produced a solid parliamentary majority for the centre-right. Collectively, the two centre-right parties (National and ACT) secured 63 seats – thus giving them an overall majority of four, and a much healthier majority of 10 over the combined 53 votes of the three centre-left parties (Labour, the Greens and the Progressives). If the single seat of the relatively centrist United Future is also added to that of National and ACT, the overall centre-right majority rises to six. While comfortable, this is only half that of the centre-left majority following the previous change of government in 1999. Given the tendency for governments to lose electoral support, maintaining an overall centre-right majority at the next election, expected in 2011, could be challenging – but is by no means impossible.

Crucially, the 2008 election placed National in the pivotal position amongst the Parliament’s seven parties. On the dominant socio-economic issue dimension (see Box 1), ACT is firmly entrenched on its right, with the other five parties located in varying positions to its left. In effect, this means that ACT is a so-called ‘captive’ party (i.e. it has no realistic political option other than to support National, and its bargaining position is weakened accordingly). Much the same configuration occurred between 1999 and 2005 (albeit in reverse). During this period, Labour occupied the position of the median voter, with two ‘captive’ parties to its left – the Alliance (subsequently the Progressives) and the Greens. By contrast, the situation during 2005–08 was much more complicated, with neither of the major parties occupying the median voter position. Instead, one (or more) of three minor parties – New Zealand First, United Future and the Māori Party – jostled for the pivotal role depending on the nature of the policy issue under debate, with the Greens and the Progressives remaining, as previously, essentially captive to Labour.

The parliamentary arithmetic following the 2008 election was such that National could readily have formed a stable government solely with ACT – involving ACT either as a full coalition partner or as a party providing support on confidence and supply. In the event, neither option was seriously pursued. Instead, National chose to broaden its parliamentary base by drawing both the Māori Party and United Future firmly into the fold, and subsequently negotiated a much looser working relationship with the Greens via a ‘memorandum of understanding’ under which the two parties have agreed to ‘work together to develop policy and legislation in areas of common interest’ (see below).

The move to embrace the Māori Party and United

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<td>44</td>
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<td>27</td>
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<tr>
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<td>Centre-right majority, including New Zealand First (1996)</td>
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<td>Centre-left majority (1999, 2002)</td>
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<td>Centre-left majority (2005)*</td>
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<td>Centre-right majority, including ACT and United Future</td>
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<td>Total number of seats</td>
<td>99</td>
<td>120</td>
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<td>120</td>
<td>121**</td>
<td>122***</td>
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Notes:
* It is assumed that the centre-left parties in 2005 comprise Labour, the Progressives, the Greens and the Māori Party.
** The Māori Party won four electorate seats in 2005, one more than its entitlement based on its party vote, thereby causing an ‘overhang’. As a result, the total number of MPs increased to 121.
*** The Māori Party won five electorate seats in 2008, two more than its entitlement based on its party vote, thereby causing an ‘overhang’. As a result, the total number of MPs increased to 122.
In a multi-party Parliament where no single party enjoys an overall majority, the bargaining power of each party depends primarily on its position along the key ideological or issue dimension (or dimensions) rather than on its actual size, heritage, experience or leadership. In a party system where there is a single dominant issue dimension (e.g., the socio-economic dimension), the most powerful or ‘pivotal’ party is typically the one located at the median point on that particular dimension. This is because the party representing the ‘median voter’ is a necessary component of all the politically feasible (or ‘connected’) minimum winning coalitions (Nagel, 1999a). In other words, it is very difficult (although not necessarily out of the question) to form a cohesive and durable government without including this particular party in the governing arrangements. It thus holds a veto (or very close to a veto) over which party, or combination of parties, can govern.

In New Zealand, the dominant issue dimension, and hence the main focus for inter-party debate and coalition building, still remains the long-standing left–right (or socio-economic) continuum (Brechtel and Kaiser, 1999). Accordingly, the party which occupies the median position on this dimension is in a strategically significant bargaining position. At the same time, several other issue dimensions are currently politically salient, thus giving New Zealand a multidimensional rather than unidimensional party system (see Nagel, 1999b). These include the materialist/post-materialist dimension (where the Greens have occupied a particular part of the policy space), the religious dimension (which has sparked various Christian-based political initiatives), and the ethno-cultural dimension (where the formation of the Māori Party – in response to the controversy over the Labour-led government’s Foreshore and Seabed Act in 2004 – has had a significant impact on New Zealand’s political landscape). Indeed, the relative success of the Māori Party (rendered possible largely as a result of there being a separate Māori roll and related parliamentary seats) highlights the capacity of an ethnic-based party to secure electoral support on policy issues far removed from those that have traditionally galvanised political action.

Multi-dimensionality in the party system can add significant complications to governing arrangements for at least two reasons. First, under proportional representation it generally results in a larger number of parties securing parliamentary seats. This not merely increases the potential governing options, but also exacerbates the transaction costs associated with forming and managing coalitions (whether of a legislative or executive nature). Second, it can lead to a situation where parties that are closely connected along one important issue dimension are strenuously opposed on another, thereby undermining collaboration. In New Zealand, such tensions were evident in mid-2002 (when serious strains between Labour and the Greens over the issue of genetic engineering contributed to the subsequent exclusion of the Greens from direct participation in the government) and again in 2005 (when the divisions between Labour and the Māori Party resulted in Labour seeking parliamentary support primarily from New Zealand First and United Future). The evolving multidimensional character of New Zealand politics has undoubtedly contributed to the unusual inter-party governance arrangements that have emerged, especially since 2005. But it is by no means the only policy driver.

Future was of some surprise, partly because it generated an ‘oversized’ parliamentary majority on votes of confidence and supply (i.e. neither the Māori Party nor United Future were essential for a ‘minimum winning coalition’), and partly because of a number of sharp policy differences between National and the Māori Party. How, then, is the inclusion of the two ‘surplus’ parties to be explained?

The political logic of an ‘oversized’ majority

In multi-party systems it is, in fact, relatively common for a major party to build a governing coalition across the middle of the political spectrum, thereby expanding its potential majority beyond the minimum required to win parliamentary votes of confidence and retain office. There are typically both short-term and longer-term reasons for adopting such a strategy.

The short-term logic runs as follows: building across the centre renders the major party less reliant upon a ‘captive’ party (assuming there is one), thereby increasing the policy options available to the government. In the case of National, there was plainly a desire to ensure that the new government could, on occasions, pursue policy objectives and legislative initiatives that ACT was unlikely to endorse (e.g. the implementation, albeit with modifications, of Labour’s recently enacted emissions trading scheme). Having the opportunity to secure support, on certain legislative issues, from the Māori Party (with five MPs) increases National’s options and gives it greater flexibility on controversial matters. Had the parliamentary arithmetic been different (e.g. had the combined votes of National and the Māori party fallen short of a parliamentary majority), the incentive structure would likewise have been different.

Forging a formal alliance with the Māori Party had another important shorter-term logic: it provided National – which has much weaker historical links to Māori than Labour – with the chance to build a more cross-cultural and multi-racial approach to governance. Given the ever-present risk of ethnic tensions and in the midst of turbulent economic circumstances, a close working relationship with the Māori Party was likely to strengthen National’s capacity.
to manage complex and controversial policy issues connected to race (e.g. constitutional issues, socio-economic disparities, criminal justice, etc.) and enhance the wider project of nation-building.

There is also a longer-term logic for building broader parliamentary alliances under proportional representation. Put simply, it is in the political interests of a major party to establish good working relationships with a party (or parties) that is likely to survive the next general election and whose support might then be needed in order to retain power. Both the Māori Party and the Greens certainly fit into this category; United Future much less so, because the party’s electoral prospects at the next general election (due before the end of 2011) are not good. Nevertheless, Peter Dunne (United Future’s leader and sole MP) is widely regarded as an experienced parliamentarian, a competent minister and a ‘safe’ pair of hands – qualities of high value for a new government relatively lacking in MPs with substantial ministerial experience. Also, having Dunne ‘inside the tent’ rather than as part of the opposition had other political advantages.

For National, therefore, winning the support of the Māori Party offered a number of potentially significant advantages – increasing its short-term legislative options, broadening its electoral appeal and legitimacy within certain communities, enhancing its capacity to manage complex ethnic and social cleavages, and making it more difficult for Labour to refashion its inter-party alliances and craft a potential post-2011 governing coalition. Moreover, the costs and risks appeared to be relatively low. As the negotiations immediately following the election highlighted, National had no need to make major policy concessions in order to secure the Māori Party’s support (or indeed that of United Future). Admittedly, the Māori Party’s backing required abandoning a pledge to abolish the separate Māori seats, but National’s commitment on this matter had never been non-negotiable; and an agreement to review the controversial Foreshore and Seabed Act 2004, but such a ‘review’, while involving political risks, is being conducted within certain agreed parameters.

For the Māori Party there were both advantages and disadvantages in aligning with National. On the positive side of the ledger, there was the opportunity for the two co-leaders (Pita Sharples and Tariana Turia) to hold ministerial posts and thereby directly influence policy making in specific areas of concern to the party. Similarly, the party stood to gain its long desired review of the foreshore and seabed legislation, additional electoral resources and various other concessions. Against this, there was an electoral risk: having hitherto drawn most of its votes from the centre-left of the political spectrum, the Māori Party stood to lose support by aligning with National. Whether this electoral cost proves to be high or low remains to be seen.

National’s recent ‘memorandum of understanding’ with the Greens is of a different order from the immediate post-election deals with ACT, United Future and the Māori Party, since it does not entail the direct participation of the Greens within the government; nor does it involve policy concessions by either side. The memorandum of understanding is also different from the various ‘cooperation agreements’ that Labour negotiated with the Greens (see below). This is because it imposes fewer obligations on the respective parties, is more limited in its scope (e.g. in terms of the range of policy and procedural issues addressed), and has no implications for the way the Greens vote on matters of confidence and supply. Instead, the memorandum of understanding merely establishes a ‘framework’ for building a ‘working relationship’ between the two parties. In accordance with this framework, National has agreed to give the Greens access to ministers, officials and Cabinet papers from time to time in return for a relatively modest pledge by the Greens ‘to consider facilitating government legislation via procedural support on a case by case basis’. Under the memorandum, the parties have agreed to work together on three specific issues, at least in the first instance: home insulation, energy efficiency and the regulation of natural health products. Overall, National’s move to engage with the Greens more formally on certain policy issues is consistent with its longer-term political strategy, namely to build good working relationships with minor parties on whom it might, at some future date, depend for support.

The development of novel multi-party governance arrangements
The first ‘surprise’ outcome of the 2008 general election – namely, National’s decision to draw not one, but three, minor parties into the governing process – is thus readily explicable given certain political considerations and imperatives.

the different kinds of inter-party deals that have been crafted since the adoption of proportional representation; and second, the political rationale for the more unusual of these arrangements.

Since 1996, seven distinct kinds of agreement between a major governing party and various minor parties (e.g. coalition partners, support parties or cooperating parties) can be identified (see Table 2). Broadly speaking, these reflect different levels of ‘tightness’ in the relationships between the respective parties – from closely coupled and relatively binding relationships at one end of the spectrum, to much looser and more flexible associations at the other (see Boston and Ladley, 2006). The first and fourth of these arrangements are common in other multi-party systems, while the second, sixth and seventh occur from time to time. By contrast, the third and fifth arrangements are thus far unique to New Zealand. Both options were the product of the very complicated bargaining environment following the 2005 election and the need for Labour to satisfy a variety of conflicting imperatives in order to remain in office (see Boston, 2007).

The development of the ‘enhanced cooperation’ deal with the Greens reflected Labour’s desire to retain the support and goodwill of this minor ‘captive’ party in a context where the Greens’ direct participation in the government had been vetoed by the two centrist parties – New Zealand First and United Future – whose backing Labour needed in order to secure a parliamentary majority. Strictly speaking, Labour could have governed without the Greens. But with a majority of only one vote in the 121-seat Parliament, Labour concluded that it needed an ‘oversized coalition’ to give it flexibility and security for the duration of the parliamentary term. Moreover, it recognised that it would need the Greens’ six votes in order to advance specific legislative initiatives where the support of another minor party (or parties) was unlikely to be forthcoming. Accordingly, it negotiated a highly unusual arrangement under which two Green MPs became government spokespersons for specific areas of public policy (e.g. energy conservation and efficiency). The MPs in question were given access to ministerial advisers and greater access to official papers and the Cabinet policy process than had hitherto been the case under the ‘ordinary cooperation’ protocols that had applied since 1999. Against this, the two Green MPs had no formal responsibility for the portfolios in which they had a spokesperson role, and thus no direct accountability to Parliament.

More significant in constitutional terms was the negotiation of the ‘enhanced’ confidence and supply agreements with New Zealand First and United Future (see Boston and Bullock, 2008). This development reflected Labour’s desire to secure a deal with New Zealand First in a context where the latter party had committed prior to the election to remaining outside the new government (and thus free of the ‘baubles of office’). The outcome of the negotiations was a compromise under which New Zealand First (and also United Future) secured a senior ministerial portfolio (albeit outside the Cabinet) while Labour secured a guarantee of 61 votes on confidence and supply (thereby giving it an overall parliamentary majority).

Elsewhere in the democratic world such an arrangement would probably have been classified as a ‘coalition’ deal rather than as a ‘confidence and supply’ agreement (whether ‘enhanced’ or otherwise). This is because in most jurisdictions the defining characteristic of a ‘coalition’ is the participation of two or more parties within the executive through the holding of ministerial offices (see Strohl, Müller and Bergman, 2008, p.6). The question of whether these offices are part of the Cabinet does not normally arise because in most jurisdictions all portfolios automatically carry full Cabinet status, with junior ministers typically having only associate or deputy roles. Note, too, that prior to this juncture all ‘confidence and supply’ agreements in New Zealand had been with ‘support’ parties, and in the international arena support parties are distinguished from coalition partners on the sole criterion that none of their MPs are ‘part of the government’ (i.e. they do not hold ministerial office).

What emerged following the 2005 general election, therefore, was a rather curious situation in which two minor parties became involved directly ‘in’ the government but were not fully ‘of’ the government; that is to say, they were part of the ‘executive government’ but not part of ‘the Cabinet’, and hence not full coalition partners with Labour (unlike the Progressive MP, Jim Anderton).

Reflecting this hybrid or ‘half-way house’ arrangement, Labour’s ‘enhanced’ confidence and supply agreements with New Zealand First and United Future made provision for a much looser application of the convention of collective ministerial responsibility, particularly in relation to the principle of Cabinet unanimity. In accordance with this principle, all ministers (whether members of the Cabinet or not) are required to support each and every Cabinet decision, regardless of their personal views and preferences.
Those wishing to disassociate themselves from a particular decision are expected to resign, since it is neither fair nor reasonable that they should be permitted to enjoy the benefits and influence of ministerial office without also accepting the consequent obligations. In its strict application, therefore, the unanimity principle precludes individual ministers (or groups of ministers) from publicly dissenting from government decisions – unless the Cabinet formally agrees to permit disagreement.

In practice, of course, the unanimity principle has rarely been applied with absolute rigour. Moreover, in the context of multi-party governments it is not uncommon for the various parties to ‘agree to disagree’ from time to time. In New Zealand, specific provisions for such disagreements were incorporated into the coalition deals between Labour and the Alliance (later the Progressives) on three occasions. The hybrid arrangements with New Zealand First and United Future, however, went considerably further. In effect, it was agreed that the two ministers concerned (Winston Peters and Peter Dunne) would only be fully bound by the convention of collective responsibility in the areas relevant to their specific portfolio responsibilities. As stated subsequently in a Cabinet Office circular (06/04):

Mr Peters’ and Mr Dunne’s participation in the government is expressly limited to certain specified or agreed areas. When Mr Peters and Mr Dunne speak about the issues within their portfolios, they speak for the government and as part of the government. When they speak about matters outside their portfolios, however, they may speak as political party leaders and MPs rather than as Ministers, and do not necessarily represent the government position.

In short, under this ‘enhanced’ confidence and supply arrangement the leaders of New Zealand First and United Future were able to participate fully in the process of government while only being bound to support the government, whether in Parliament or more generally, in their respective portfolio areas.

When these ‘hybrid’ arrangements were negotiated in the wake of the 2005 general election they were criticised on various grounds, not least their political expediency and their

<table>
<thead>
<tr>
<th>Table 2: Types of multi-party governance in New Zealand (1996–2009)</th>
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<td><strong>Form of governance arrangement</strong></td>
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departure from traditional notions of collective responsibility. As the then leader of the National party, Don Brash (2006, p.9), put it:

Essentially New Zealand now has two Ministers exercising powers of government without being collectively responsible for the operation of the government. They are no longer responsible to Parliament for the overall activities of the government they represent. These ministers are free to enjoy the trappings of office, while at the same time being free to disassociate themselves from the activities of the whole of the government from which they derive their status.

... a novel solution to the highly unusual political circumstances following the 2005 election has now become an accepted, and indeed favoured, approach in New Zealand for fashioning multi-party governance under proportional representation.

Given such concerns, it might have been expected that a National-led government would eschew arrangements of this kind. Instead, it firmly embraced them. Why? There appear to be at least three reasons.

First, the approach instituted by Labour in 2005 was not generally seen as unconstitutional and did not provoke trenchant or widespread criticism from constitutional experts and media commentators (see Palmer, 2006; White, 2005). Admittedly, there was disquiet in some quarters about the propriety of permitting certain ministers to speak regularly and openly against the government. But the concerns here were ethical and political, rather than constitutional. Overall, the new arrangements were seen as marking another pragmatic step in an ongoing evolutionary process, with the unanimity principle being modified yet again to reflect the political imperatives generated by proportional representation. Had there been no prior ‘agree to disagree’ provisions in coalition agreements, it is possible that Labour’s deals with New Zealand First and United Future in 2005 would have generated more vigorous and sustained criticism. But, in the event, the earlier experiments with a looser arrangement proved to be relatively successful, and certainly preferable to the main alternatives – namely a formal coalition of some kind or ‘ordinary’ confidence and supply arrangements. Labour during these years, only the Greens increased their share of the party vote.

Third, and related to this, the experience of the 2005–08 parliamentary term demonstrated that the ‘enhanced’ confidence and supply arrangements offer a workable solution to one of the key challenges of multi-party governance – namely the so-called unity-distinctiveness dilemma (see Boston and Bullock, 2008). This dilemma arises from the effort to balance two conflicting political imperatives: on the one hand, the desire for a high degree of inter-party cooperation and a unified public stance on major policy issues in the interests of effective, durable and responsible government; and on the other, the desire to facilitate a degree of inter-party differentiation in the interests of protecting the distinct identity (and hence political viability) of the minor party (or parties) directly involved in the government. But if the ‘enhanced’ confidence and supply arrangements during 2005–08 provided a politically convenient and workable compromise, they did not, in the end, prevent the parties involved (i.e. Labour, New Zealand First and United Future) suffering significant electoral losses in 2008 (see Table 1). Indeed, of the four minor parties that negotiated some kind of governance arrangement with Labour during these years, only the Greens increased their share of the party vote.

Notwithstanding this outcome, the ‘enhanced’ confidence and supply arrangements were regarded by the key participants as relatively successful, and certainly preferable to the main alternatives – namely a formal coalition of some kind or ‘ordinary’ confidence and supply arrangements. The leader of United Future, Peter Dunne, was particularly keen on the ‘enhanced’ approach, and was instrumental in
persuading National’s leader (John Key) and deputy leader (Bill English) of its merits. Hence, when National came to negotiate with potential allies in November 2008, it soon became apparent that Labour’s innovative arrangements (albeit with some minor adjustments) were the favoured approach of the principal players. It also became evident that negotiating broadly similar arrangements with ACT, United Future and the Māori Party offered a way of treating each party on equal terms, thereby avoiding the potential inter-party conflicts that might arise from a governing construct based on asymmetrical relationships.

Accordingly, a novel solution to the highly unusual political circumstances following the 2005 election has now become an accepted, and indeed favoured, approach in New Zealand for fashioning multi-party governance under proportional representation. And thus far the ‘enhanced’ confidence and supply arrangements negotiated by National appear to be working as successfully as they did for Labour. This does not mean, of course, that such governance arrangements are destined to become the norm. Much will no doubt depend on the evolving character of New Zealand’s party system (including the likelihood that the number of parliamentary parties will decline from the current seven to around five), the particular political constraints and imperatives generated by future elections, and the possibility of further changes to the electoral system.

In the meantime, perhaps the real puzzle in all this is why similar governance arrangements have not been adopted in other multi-party systems, particularly those with a much longer tradition of proportional representation than New Zealand. After all, if such arrangements provide a relatively effective and workable solution (under certain conditions) to the unity-distinctiveness dilemma, why have they not found expression elsewhere? One possibility is that New Zealand’s flexible constitutional arrangements and distinctive political culture, including a tradition of pragmatism, have enabled it to experiment in ways that other multi-party democracies would find more difficult. Another reason may reside in New Zealand’s particular form of multi-dimensionality (see Box 1).

Whatever the reason, it will be interesting to observe over the coming years whether New Zealand’s novel governance arrangements are replicated elsewhere or whether they remain unique to this particular democracy.

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1 Various people provided useful comments on an earlier version of this paper. I would particularly like to thank David Bullock and Colin James for their constructive criticisms and helpful advice.
2 Even so, it did not entail the complete replacement of the parties represented within the executive because the leader of United Future, Peter Dunne, retained his ministerial position.
3 For instance, it is unlikely that either United Future or the Progressives will survive the next election.

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References


